

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

----- x

In Re: Methyl Tertiary Butyl Ether (öMTBEö)
Products Liability Litigation

Master File No. 1:00-1898
MDL 1358 (SAS)
M21-88
ECF Case

----- x

This document relates to the following case:

City of New York v. Amerada Hess Corp., et al.
Case No. 04 Civ. 3417

----- x

**PLAINTIFF CITY OF NEW YORK’S OBJECTIONS TO DEFENDANT’S
WITNESS LIST FOR PHASE II**

Plaintiff the City of New York (the öCityö) hereby submits its objections to Defendant’s
Witness List for Phase II.

Plaintiff the City of New York (the City) hereby objects to Defendant's witness list for Phase II as follows:

1. Plaintiff objects to Defendant calling witness Elizabeth Anderson in Phase II because she is irrelevant to and outside the scope of the issues in Phase II. *See* Fed. R. Evid. 401-403 (as to Phase II).

2. Plaintiff objects to Defendant calling witness Marcia Williams in Phase II because the content of her "expert" testimony, which consists of legal conclusions and opinions about the meaning of the law, is improper and inadmissible. Expert testimony that consists of legal conclusions, or of speculation as to lawmakers' motives, is especially prone to create unfair prejudice, confuse the issues, or mislead the jury, and is therefore inadmissible under Fed. R. Evid. 403. *See* Fed. R. Evid. 403. Expert testimony that offers legal conclusions is also inadmissible under Fed. R. Evid. 704(a). *See* Fed. R. Evid. 704(a). An expert may neither testify about the meaning of the law nor provide legal conclusions. *See Highland Capital Management, L.P. v. Schneider*, 379 F.Supp.2d 461 (S.D.N.Y. 2005). Plaintiff notes that it has a motion *in limine* pending to exclude Marcia Williams.

3. The City does not waive (and expressly reserves) the right to make any additional or further objections that may become evident at trial or after service of these objections.

Dated: San Francisco, California
June 29, 2009

MICHAEL A. CARDOZO
Corporation Counsel of the City of New York
Attorney for Plaintiff City of New York
100 Church Street
New York, New York 10007
(212) 788-1568

/s/ LESLEY E. WILLIAMS

VICTOR M. SHER (*pro hac vice*)
TODD E. ROBINS (*pro hac vice*)
JOSHUA G. STEIN (*pro hac vice*)
LESLEY E. WILLIAMS (LW8392)
NICHOLAS G. CAMPINS (*pro hac vice*)
MARNIE E. RIDDLE (*pro hac vice*)

SHER LEFF LLP
450 Mission Street, Suite 400
San Francisco, CA 94105
(415) 348-8300

Attorneys for Plaintiff City of New York